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6 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

7 LAWRENCE BENNETT,

8 Plaintiff,

9 v.

10 MICHAEL J. ASTRUE,
11 Commissioner of Social Security,

12 Defendant.

NO. CV-10-3110-JPH

**ORDER ADOPTING
REPORT AND
RECOMMENDATION**

13 Magistrate Judge Hutton entered a Report and Recommendation on April 9,
14 2012, recommending Plaintiff's Motion for Summary Judgment be granted and
15 Defendant's Motion for Summary Judgment be denied (ECF No. 38). Defendant
16 timely filed an objection on April 23, 2012 (ECF No. 39) and Plaintiff filed a
17 response on May 1, 2012 (ECF No. 40). Defendant's objections are restatements of
18 arguments made in summary judgment briefing.

19 Accordingly, **IT IS HEREBY ORDERED:**

- 20 1. The Court **adopts** Magistrate Hutton's Report and Recommendation
21 (ECF No. 38).
22 2. Plaintiff's Motion for Summary Judgment (ECF No. 19) is **GRANTED**,
23 for the limited purpose of remanding the case to the Commissioner for additional
24 proceedings.
25 3. Defendant's Motion for Summary Judgment (ECF No. 30) is **DENIED**.
26 4. An application for attorneys fees may be filed by separate motion.

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2 5. Judgment shall be entered in favor of Plaintiff.

3 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
4 Order, provide copies to counsel, and **close the file.**

5 **DATED** this 29th day of June, 2012.
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8 *s/Robert H. Whaley*
9 ROBERT H. WHALEY
United States District Court

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